

BOARD OF WATER AND NATURAL RESOURCES
NOTICE OF PUBLIC HEARING TO AMEND RULES

A public hearing will be held on March 26, 2015, at 1:00 p.m. CDT in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, South Dakota to consider amendments to administrative rules in chapters

74:05:07	Consolidated water facilities construction program;
74:05:08	State water pollution control revolving fund program;
74:05:10	Solid waste management program; and
74:05:11	Drinking water state revolving fund program.

Chapter 74:05:07 Consolidated water facilities construction program

The effect of the proposed revisions to ARSD 74:05:07 will be to 1) increase the amount in the definition of “Minimum established rates” for water and wastewater users in an incorporated municipality or sanitary district (74:05:08:01); 2) remove application restrictions that prohibit a project from including preliminary design costs in the total project cost (74:05:07:03); 3) remove the requirements of applications to include the status of permits, required lands, easements and right of way (74:05:07:08); and 4) provide a time length for the applicant to correct the identified deficiencies (74:05:07:08.01).

The reason for the amendments is to 1) increase the minimum rates for applicants to be eligible to receive grant funding; 2) allow applicants to include preliminary design costs in the total project cost so those costs can be reimbursed through the program; 3) remove the requirements to submit information with the application that can be submitted at a later date, if needed; and 4) provide consistency for application review and responses throughout the administrative rules for the different funding programs administered by the Department of Environment and Natural Resources.

Chapter 74:05:08 State water pollution control revolving fund program

The effect of the proposed revisions to ARSD 74:05:08 will be to 1) update the definition of “Act” (74:05:08:01); 2) revise the definition of “Interim financing” from three years to five year (74:05:08:01); 3) establish a definition for “Median household income” and source for that information (74:05:08:01); 4) increase the amount in the definition of “Minimum established rates” for wastewater users in an incorporated municipality or sanitary district (74:05:08:01); 5) establish a definition for “Unemployment rate” and the source for that information (74:05:08:01); 6) revise the definition of “Wastewater treatment works” (74:05:08:01); 7) repeal the “Green infrastructure priority points” section (74:05:08:03.02) and remove references to this section (74:05:08:03, 74:05:08:04 and 74:05:08:12.02) ; 8) revise the criteria for principal forgiveness eligibility (74:05:08:12.01); 9) establish affordability criteria to receive principal forgiveness (74:05:08:12.03); 10) revise required information to be submitted as part of the application for funding (74:05:08:13); 11) add a section reference (74:05:08:13.01); and 12) extend the duration of assistance for interim financing to five years and minor grammatical changes (74:05:08:17).

The reason for the amendments is to 1) update references to the Clean Water Act authorizing legislation; 2) provide additional time for projects to complete construction if they have received interim funding; 3) comply with the Water Resource Reform and Development Act (WRRDA) of 2014 requirement that median household income data be included in the affordability criteria established by the state; 4) increase the minimum rates for applicants to be eligible to receive principal forgiveness; 5) comply with the WRRDA requirement that unemployment data be included in the affordability criteria established by the state; 6) comply with the WRRDA requirement that expanded the definition of treatment works; 7) remove the requirement to provide additional priority points for green infrastructure projects; 8) comply with the WRRDA requirement that an applicant meet the affordability criteria established by the state to be eligible to receive principal forgiveness; 9) comply with the WRRDA requirement that the state must

establish affordability criteria; 10) remove certain documents currently required for application submittal which are no longer necessary, and include new documents which are now required; 11) reference section 74:05:08:13.03 in the rule which was inadvertently omitted previously; and 12) allow for interim financing loans to be provided for a period of up to five years and improve the readability of the section.

Chapter 74:05:10 Solid waste management program

The effect of the proposed revisions to ARSD 74:05:10 will be to 1) change the requirements of documents that must be submitted as a part of the application (74:05:10:14); 2) provide a time length for the applicant to correct the identified deficiencies (74:05:10:07); and 3) repeal a duplicate section (74:05:10:32).

The reason for the amendments is to 1) remove certain documents currently required for application submittal which are no longer necessary, and include new documents which are now required; 2) provide consistency for application review and responses throughout the administrative rules for the different funding programs administered by the Department of Environment and Natural Resources; and 3) eliminate duplicate sections in the chapter.

Chapter 74:05:11 Drinking water state revolving fund program

The effect of the proposed revisions to ARSD 74:05:11 will be to 1) update the definition of “Act” (74:05:11:01); 2) increase the amount in the definition of “Disadvantaged community” for water users in an incorporated municipality or sanitary district (74:05:11:01); 3) revise the definition of “Interim financing” from three years to five year (74:05:11:01); 4) update the definition for “Median household income” and the source for that information (74:05:11:01); 5) increase the amount in the definition of “Minimum established rates” for water users in an incorporated municipality or sanitary district (74:05:11:01); 6) repeal the “Green infrastructure priority points” section (74:05:11:06.01), and remove references to this section (74:05:11:05, 74:05:11:08 and 74:05:11:11.02); 7) adjust the affordability priority point criteria (74:05:11:06); 8) revise required information to be submitted as part of the application for funding (74:05:11:12); and 9) extend the duration of assistance for interim financing to five years, and provide for financing to increase from 20 years to up to 30 years as permitted by the Act (74:05:11:16).

The reason for the amendments is to 1) update references to the Safe Drinking Water Act authorizing legislation; 2) increase the minimum rates for applicants to be eligible to receive disadvantaged assistance; 3) provide additional time for projects to complete construction if they have received interim funding; 4) update the current median household income levels which are based on the 2000 census data this data is outdated, and provide consistency for median household income data used in both the state revolving fund programs; 5) increase the minimum rates for applicants to be eligible to receive principal forgiveness; 6) remove the requirement to provide additional priority points for green infrastructure projects; 7) adjust the priority point affordability criteria formula to reflect new median household income data being used; 8) remove certain documents currently required for application submittal which are no longer necessary, and include new documents which are now required; and 9) allow for interim financing loans to be provided for a period of up to five years and that extended financing be provided for up to 30 years for non-disadvantaged communities as permitted by a recent EPA determination.

The proposed rules may be accessed at the Rules.SD.Gov web page at <https://rules.sd.gov/agency.aspx?agency=DENR> Environment and Natural Resources, the DENR web page at <http://denr.sd.gov/public/default.aspx> or copies may be obtained without charge from the following address:

Department of Environment and Natural Resources
Division of Financial and Technical Assistance
523 East Capitol

Pierre, SD 57501

Persons interested in commenting on the proposed amendments may do so by appearing in person or by presenting written comments at the hearing. Written comments may also be submitted through the DENR web page at <http://denr.sd.gov/public/default.aspx> or mailed to the Board of Water and Natural Resources, Department of Environment and Natural Resources, 523 East Capitol, Pierre, SD 57501. Written comments mailed to the Board must be received by close of business on March 25, 2015.

After the hearing, the board will consider all written and oral comments received on the proposed rules. The board may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is given to persons with disabilities that this hearing is being held in a physically accessible place and that interpreter services will be provided, if necessary, during this hearing. Please notify the Department of Environment and Natural Resources at the above address or by calling (605) 773-4216 at least 48 hours prior to the public hearing if you have special needs for which special arrangements must be made.

Steven M. Pirner, Secretary
Department of Environment and Natural Resources